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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/091,694	03/05/2002	Bruce E. Lavigne	100202225-1	7434

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HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins, CO 80527-2400

EXAMINER

ABELSON, RONALD B

ART UNIT	PAPER NUMBER
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2616

DATE MAILED: 05/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/091,694

Applicant(s)

LAVIGNE ET AL.

Examiner

Ronald Abelson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 March 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 March 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date. _____ | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-5 and 19-25 rejected under 35 U.S.C. 102(e) as being anticipated by McCloghrie (US 6,920,112).

Regarding claims 1, 19, and 23, McCloghrie teaches a processor (fig. 1 box 120, col. 3 lines 31-34).

McCloghrie teaches an input interface for receiving a plurality of packets coupled to the processor (fig. 1 element 111, col. 3 lines 31-34), the input interface comprising at least one input port wherein at least one said input port is configured to sample at least one input packet and transmit a sampled input packet to the processor (fig. 1 box 111, sampling of packets occurs at input interfaces 111, forwards sampled

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packets to another portion of traffic management element 120, col. 3 lines 42-52).

McCloghrie teaches an output interface for transmitting a plurality of packets coupled to the processor (fig. 1 element 112, col. 3 lines 31-34), the output interface comprising at least one output port wherein at least one said output port is configured to sample at least one output packet and transmit a sampled output packet to the processor (fig. 1 box 112, sampling of packets occurs at output interfaces 112, forwards sampled packets to another portion of traffic management element 120, col. 3 lines 42-52).

McCloghrie teaches a switching fabric coupled to the input interface and the output interface, the switching fabric configured to transmit a packet between the input interface and output interface (fig. 1 box 110, col. 3 lines 22-29).

Regarding claim 23, in addition to the limitations previously addressed, a computer-readable memory coupled to said input interface and said output interface (fig. 1 box 130, col. 4 lines 1-5) and a microcontroller coupled to said input interface and said output interface, said microcontroller for executing a method of sampling a packet (fig. 2 Sampling CTRLR, col. 4 lines 19-21).

Regarding claims 2, 11, 21, McCloghrie teaches at least one said input port comprises a countdown register, wherein said input port is configured to sample a packet according to said countdown register (fig. 1 box 111, sampling of packets occurs at the input interfaces, col. 3 lines 42-45, sample one out of every N packets, col. 4 lines 41-43).

Regarding claims 3, 13, 20, McCloghrie teaches at least one said output port comprises a countdown register, wherein said output port is configured to sample a packet according to said countdown register (fig. 1 box 112, sampling of packets occurs at the output interfaces, col. 3 lines 42-45, sample one out of every N packets, col. 4 lines 41-43).

Regarding claims 4 and 22, the processor (fig. 1 box 120, fig. 2 box 120) transmits said sampled input packet and said sampled output packet to a central control station (fig. 2 see transmission of packet from box 250 to 260, col. 5 lines 62-65) over a network. The examiner corresponds applicant's central control station with the Type Detector and Frequency Measure (fig. 2 box 260, 270) of the reference and the applicant's

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network with the connection from box 250 to 260 in the reference.

Regarding claim 5, the central control station comprises a statistical monitoring station (fig. 2 box 270, col. 6 lines 8-13).

Regarding claims 24 and 25, the microcontroller transmitting said sampled incoming/outgoing packet to a statistical monitoring station (fig. 2 box 270) over a network (see the connection from box 250 to 260).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary.

Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 10, 11, 13, 15, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over McCloghrie in view of Genrich (US 5,596,609).

Regarding claim 10, McCloghrie teaches for receiving a plurality of packets at an input network circuit, said input network circuit comprising at least one input port (fig. 1 element 111, col. 3 lines 31-34).

McCloghrie teaches sampling at least one input packet and transmitting at least one sampled input packet to a processor

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(fig. 1 box 111, sampling of packets occurs at input interfaces 111, forwards sampled packets to another portion of traffic management element 120, col. 3 lines 42-52).

McCloghrie teaches transmitting at least one packet from said network circuit to an output network circuit (fig. 1: see output of box 120 to box 130) over a switching fabric (fig. 1 box 110), said output network circuit comprising at least one output port.

McCloghrie teaches sampling at least at least one output packet at said output port (fig. 1 see connection from output port 112 to box 120).

McCloghrie teaches transmitting at least one sample output packet to said processor (fig. 1 see connection from port 112 to box 120).

McCloghrie is silent on the method takes place on a network device.

Genrich teaches a network device / integrated circuit capable of performing the sampling functions listed above (integrated circuit, sampling rate, col. 3 lines 39-42).

Therefore it would have been obvious to one of ordinary skill in the art, to modify the system of McCloghrie on an integrated circuit. This modification can be performed according

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to the teachings of Genrich. This modification would benefit the system by allowing for all the functions to be performed on a single, reliable, inexpensive device.

Regarding claim 11, McClohrrie teaches at least one said input port comprises a countdown register, wherein said input port is configured to sample a packet according to said countdown register (fig. 1 box 111, sampling of packets occurs at the input interfaces, col. 3 lines 42-45, sample one out of every N packets, col. 4 lines 41-43).

Regarding claim 13, McClohrrie teaches at least one said output port comprises a countdown register, wherein said output port is configured to sample a packet according to said countdown register (fig. 1 box 112, sampling of packets occurs at the output interfaces, col. 3 lines 42-45, sample one out of every N packets, col. 4 lines 41-43).

Regarding claim 15, the processor (fig. 1 box 120, fig. 2 box 120) transmitting said sampled input packet (fig. 1,2 box 120, col. 5 lines 62-65) to a statistical monitoring station (fig. 2 box 270, col. 6 lines 8-13) over a network (see connection from box 250 to 260).

Regarding claim 16, the processor (fig. 1 box 120, fig. 2 box 120) transmitting said sampled output packet (fig. 1,2 box 120, col. 5 lines 62-65) to a statistical monitoring station (fig. 2 box 270, col. 6 lines 8-13) over a network (see connection from box 250 to 260).

6. Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over McCloghrie as applied to claims 2, 3, 11, and 10 respectively above, and further in view of Dean (US 6,442,585).

Regarding claims 8 and 9, although McCloghrie teaches a countdown register, the reference is silent on a random number countdown register.

Dean teaches a random number countdown register (fig. 2 box 265, countdown register, random sampling, col. 7 lines 31-37).

Therefore it would have been obvious to one of ordinary skill in the art, to modify the system of McCloghrie by replacing the countdown registers at the input and output ports with a random number countdown register as suggested by Dean. This modification would benefit the system by providing for

improved statistical sampling.

7. Claims 12 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of McCloghrie and Genrich as applied to claims 11, and 13 respectively above, and further in view of Dean (US 6,442,585).

Regarding claims 11 and 13, although the combination of McCloghrie and Genrich teaches a countdown register, the reference is silent on a random number countdown register.

Dean teaches a random number countdown register (fig. 2 box 265, countdown register, random sampling, col. 7 lines 31-37).

Therefore it would have been obvious to one of ordinary skill in the art, to modify the system of the combination of McCloghrie and Genrich by replacing the countdown registers at the input and output ports with a random number countdown register as suggested by Dean. This modification would benefit the system by providing for improved statistical sampling.

8. Claims 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over McCloghrie as applied to claim 1 above, and further in view of Chen (US 6,658,006).

Regarding claim 6, McCloghrie is silent on the sampled input packet comprises an identification of the input port that sampled the sampled input packet.

Chen teaches a method for modifying the header bits of an incoming packet to identify the input port (col. 1 lines 48-51).

Regarding claim 7, McCloghrie is silent on the sampled output packet comprises an identification of the output port that sampled the sampled input packet.

Chen teaches a method for modifying the header bits of a packet to identify the output port (col. 1 lines 51-55).

Therefore it would have been obvious to one of ordinary skill in the art, to modify the system of McCloghrie by incorporating within the input and output ports logic to modify the header bits to identify the respective input/output ports. This modification can be performed according to the teachings of Chen. This information could be useful in load balancing.

9. Claims 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of McCloghrie and

Genrich as applied to claim 10 above, and further in view of Chen (US 6,658,006).

Regarding claim 17, the combination of McCloghrie and Genrich is silent on the sampled input packet comprises an identification of the input port that sampled the sampled input packet.

Chen teaches a method for modifying the header bits of an incoming packet to identify the input port (col. 1 lines 48-51).

Regarding claim 18, the combination of McCloghrie and Genrich is silent on the sampled output packet comprises an identification of the output port that sampled the sampled input packet.

Chen teaches a method for modifying the header bits of a packet to identify the output port (col. 1 lines 51-55).

Therefore it would have been obvious to one of ordinary skill in the art, to modify the system of the combination of McCloghrie and Genrich by incorporating within the input and output ports logic to modify the header bits to identify the respective input/output ports. This modification can be performed according to the teachings of Chen. This information

could be useful in load balancing.

10. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of McCloghrie and Genrich as applied to claim 11 above, and further in view of Dean (US 6,442,585).

Although McCloghrie teaches a countdown register, the combination is silent on a random number countdown register.

Dean teaches a random number countdown register (fig. 2 box 265, countdown register, random sampling, col. 7 lines 31-37).

Therefore it would have been obvious to one of ordinary skill in the art, to modify the system of the combination of McCloghrie and Genrich by replacing the countdown registers at the input and output ports with a random number countdown register as suggested by Dean. This modification would benefit the system by providing for improved statistical sampling.

Response to Arguments

11. Applicant's arguments filed 3/6/2006 have been fully considered but they are not persuasive.

Regarding applicant's arguments concerning a "network device", the term is in the preamble for claims 1, 19, and 23. For claim 10, the term "network device" has been amended into the body of the claim.

A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See In re Hirao, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and Kropa v. Robie, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951).

With respect to independent claims 1, 10, 19, 23, the applicant asserts that the traffic management element 120 is a separate device from the packet switch 110 (pg. 10 1st paragraph). However, as noted by the applicant, McCloghrie states, "the traffic management element 120 can be distributed within a plurality of devices". Therefore, the examiner maintains that the traffic management element 120 can be distributed within a device consisting of the packet switch (fig. 1 box 110). Thus the examiner maintains that the packet switch and traffic management element can be a single device on an integrated circuit for example.

With respect to dependent claims 8, 9, 12, and 14, the applicant reasserts his contention that the traffic management element 120 is a separate device from the packet switch 110 (pg. 11-13). The examiner disagrees for the reasons stated above.

With respect to dependent claims 6, 7, 17, and 18, the applicant reasserts his contention that the traffic management element 120 is a separate device from the packet switch 110 (pg. 14-16). The examiner disagrees for the reasons stated above.

Conclusion

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ronald Abelson whose telephone number is (571) 272-3165. The examiner can normally be reached on M-F.

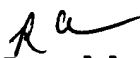
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chi Pham can be reached on (571) 272-3179. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.


Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Ronald Abelson
Examiner
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CHI PHAM
SUPERVISORY PATENT EXAMINER
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